IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

WP(C).No. 32561 of 2007(B)

PETITIONER:

SMT. M.V.RAJALAKSHMI,
RESIDING AT PALLATH HOUSE, PALLIKKARA,
P.O.PUTHARIYADUKKAM, NILESHWAR (VIA),
KASARGODE DISTRICT,(PROPRIETOR,
M/S ABISHEK FUELS).

BY ADV. SRI.JAWAHAR JOSE
SRI.CISSY MATHEWS

RESPONDENTS:

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1. INDIAN OIL CORPORATION LIMITED,
REPRESENTED BY ITS CHIEF OPERATIONS MANAGER,
KERALA STATE OFFICE, PANAMPILLY AVENUE,
PANAMPILLY NAGAR P.O., COCHIN-36.

2. SENIOR DIVISIONAL RETAIL SALES MANAGER,
INDIAN OIL CORPORATION(IOC), 2ND FLOOR,
PMR TOWERS, CIVIL STATION P.O.,
WAYANAD ROAD, KOZHIKODE-20.

BY SC SHRI. A.M. SHAFFIQUE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

WP(C).No. 32561 OF 2007 B

Dated this the 5th November, 2007.

JUDGMENT

The petitioner is a retail outlet dealer of first respondent-Indian Oil Corporation at Bandaduka in Kasaragode District. Proceedings have been initiated against him for cancellation of the dealership on allegations of adulteration. A show cause notice Ext.P1 has been issued to the petitioner to which the petitioner has filed Ext.P2 explanation. The grievance of the petitioner is that the collection of samples for testing which led to the allegations was faulty. Therefore she seeks a direction to the respondents to conduct another marker test. The petitioner therefore seeks the following reliefs:-

> "i) The Hon'ble court may be pleased to direct the second respondent to conduct 'marker test' again, after collecting fresh sample from outlet, and
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> ii) To stay all further proceedings pertaining to termination of dealership before the second respondent, pending disposal of the above writ petition."

2. I have heard the standing counsel appearing for the respondents.

3. It is seen that the petitioner has made a request for another marker test in Ext.P2 explanation itself. Therefore, I feel that this is a matter which the respondents should consider first in accordance

with the guidelines applicable. Therefore, I dispose of this writ petition with a direction to the second respondent to consider Ext.P2 and pass appropriate orders pursuant to Ext.P1 as expeditiously as possible, at any rate within one month from the date of receipt of a copy of this judgment. The second respondent shall, while disposing of the same consider the request of the petitioner for conducting another market test in accordance with the guidelines applicable. I make it clear that I have not considered on merits as to whether as per the guidelines applicable such a second test is permissible.

S. SIRI JAGAN
Judge

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